

# NOTICE OF PUBLIC MEETING

## ARIZONA CRIMINAL JUSTICE COMMISSION

### JOINT EXECUTIVE AND LEGISLATIVE COMMITTEE

Pursuant to A.R.S. § 38-431.02, notice is hereby given to the members of the **Joint Executive and Legislative Committee** and to the general public that the **Joint Executive and Legislative Committee** will hold a meeting open to the public on **Friday, February 12, 2021**, beginning at **1:30 p.m.** at the **Arizona Criminal Justice Commission Office, 1110 W. Washington, Suite 230, Phoenix, Arizona 85007**. Members of the Commission may attend either in person or by telephone, video or internet conferencing.

Pursuant to the Americans with Disabilities Act (ADA), the Arizona Criminal Justice Commission endeavors to ensure the accessibility of its meetings to all persons with disabilities. Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting the Commission Office at (602) 364-1146. Requests should be made as early as possible to allow time to arrange the accommodation.

Agenda for the meeting is as follows:

	<b>Agenda Items</b>	<b>Presenter</b>
I.	<b>Call to Order and Roll Call</b>	<b>David Sanders</b>
II.	<b>Approval of Previous Meeting Minutes</b>	<b>David Sanders</b>
		<b>P-F-T</b>
III.	<b>Review Introduced Criminal Justice Legislation</b>	<b>Molly Edwards</b>
		<b>P-F-T</b>
IV.	<b>Call to the Public</b>	
	<p>Those wishing to address the Committee will need to contact our Public Information Officer in advance of the meeting by sending an email to <a href="mailto:medwards@azcjc.gov">medwards@azcjc.gov</a> . Please provide the phone number where you can be reached. Staff will call you during the Call to the Public for your comment. Due to COVID, no in person presentations will be made.</p> <p>Action taken as a result of public comment will be limited to directing staff to study the matter or rescheduling the matter for further consideration and decision at a later date.</p>	
V.	<b>Next Meeting</b>	
	The next Committee meeting is at the Call of the Chairperson	
<p>A copy of the agenda background material provided to Committee members is available for public inspection at the Arizona Criminal Justice Commission Office, 1110 West Washington, Suite 230, Phoenix, Arizona 85007. (602) 364-1146. This document is available in alternative formats by contacting the Commission Office.</p>		

**ARIZONA CRIMINAL JUSTICE COMMISSION  
LEGISLATIVE COMMITTEE  
ACTION-MOTION/ INFORMATION ITEM**

<b>Presenter</b>	<i>David Sanders</i>	
<b>Agenda Title</b>	<i>Approval of Previous Meeting Minutes</i>	

<b>Recommended Action</b>	The Committee will consider approval of the minutes of its February 5, 2021 meeting.
<b>Details/Discussion</b>	None
<b>Fiscal Impact</b>	None
<b>Alternatives Considered</b>	Not Approve-Modify-Table

**Joint Executive Committee and Legislative Committee  
of the Arizona Criminal Justice Commission  
Minutes  
February 5, 2021**

A public meeting of the Joint Executive and Legislative Committees of the Arizona Criminal Justice Commission was convened on Friday, February 5, 2021 at the Arizona Criminal Justice Commission, 1110 W. Washington, Suite 230, Phoenix, AZ 85007.

Members Present:

David Sanders, Chairperson, Pima County Chief Probation Officer  
Sheila Polk, ACJC Chairperson, Yavapai County Attorney  
John Johnson on behalf of Attorney General Mark Brnovich  
Joseph Grossman on behalf of Director David Shinn  
Blaze Baggs on behalf of Col. Heston Silbert, Department of Public Safety  
Liana Garcia on behalf Dave Byers, Director of Administrative Office of the Courts  
Russ Skinner on behalf of Sheriff Paul Penzone  
Jason Small on behalf of Mayor Greg Mengarelli  
Kathryn Ptak on behalf of Mina Mendez, Board of Clemency

Members Absent

Steve Stahl, ACJC Vice Chairman, Maricopa Chief of Police  
Laura Conover, Pima County Attorney  
Chris Nanos, Pima County Sheriff

ACJC Staff Present:

Molly E. Edwards, Public Information Officer/Legislative Liaison  
Andy LeFevre, ACJC Executive Director  
Jesus Emiliano Galvin, Legislative Intern  
Wendy Boyle  
Matt Bileski, Information Technology

**I. Call to Order and Roll Call**

The meeting was called to order by Chief David Sanders at 1:31 pm. Roll was taken and a quorum was present.

**II. Approval of Minutes from October 26, 2020 and January 29, 2021**

Russ Skinner made the motion to approve the minutes from both meetings. Jerry Landau seconded the motion.  
\*Note: Mr. Landau was sitting in for AOC until Liana Garcia could join the meeting. Motion passed unanimously.

**III. Special Action Item**

Director LeFevre explained that on the meeting of January 29, 2021, the meeting agenda/minutes were not posted within the guidelines and in violation of the Open Meeting Law. Upon further review of the time of the time the agenda had been posted staff realized that we missed the 24 hour notification period for the meeting.

The meeting of the Arizona Criminal Justice Commission held on Friday, January 29th at 1:30 PM was held in violation of Arizona's Open Meeting Law. Specifically the agenda for the meeting was not posted at least 24 hours in advance of the meeting start time.

As such the action taken by the Members to vote to oppose Senate Bill 1290 was not a valid action by the Commission.

A public body may ratify an action previously taken in violation of the Open Meeting Law via A.R.S. §38-431.05(B). That procedure is as follows:

1. The decision to ratify must take place at a public meeting held in accordance with the Open Meeting Law.
2. The decision to ratify must be taken within 30 days after discovery of the violation or after such discovery should have been made by the exercise of reasonable diligence.
3. The public notice of the meeting at which ratification is to take place must include (a) a description of the action to be ratified, (b) a clear statement that the public body proposed to ratify a prior action, and (c) information on how the public may obtain a written description of the action to be ratified.
4. In addition to the notice and agenda of the meeting, the public body must make available to the public a detailed written description of the action to be ratified and a description of all prior deliberations, consultations, and decisions by members of the public related to the action to be ratified.
5. The description required under paragraph 4 must be included as part of the minutes of the meeting at which the decision to ratify was made.
6. The public notice, agenda, and written description must be made available to the public at least 72 hours prior to the public meeting.

At the meeting held on Friday, January 29, 2021 the Members discussed Senate Bill 1290, Criminal Case Statistics; Report; Appropriation, introduced by Senator Engle. This bill would take \$150,000 from the Drug and Gang Enforcement Resource Center Fund in FYs 2021-2022 and 2022-2023 to be distributed to county attorney offices to cover the cost associated with preparing the criminal case statistics report required in the bill.

ACJC Director, Andrew LeFevre, explained that the fund is roughly in balance and that the use of any funds from this source would extremely detrimental to the work of the agency to conduct the Arizona Youth Survey and the work of the Statistical Analysis Center - especially given the focus on data collection and reporting.

ACJC Chairperson Sheila Polk made a motion that the Commission oppose SB 1290. The motion was seconded by Joe Grossman, designee for Director David Shinn. Mr. Grossman asked a question about the source of the funding for the Drug and Gang Enforcement Resource Center Fund. Director LeFevre explained that it is a special revenue stream that is derived from a percentage of court filing fees.

Legislative Committee Chairperson, David Sanders called for a vote on the motion and it passed unanimously. Sheila Polk made a motion to ratify the previous decision to oppose SB1290, a decision that was made on January 29, 2021. Seconded by Joe Grossman. Passed unanimously.

#### **IV. Legislative Overview**

Molly Edwards Public Information Officer/Legislative Liaison stated the legislature is in its 26<sup>th</sup> day and that 1,645 bills had been introduced to date. The last date for bills to be heard in their house of origin is February 19. Staff is currently tracking over 100 bills.

Ms. Edwards presented HB2260 – Criminal Justice Membership Bill. This bill was voted on in the Committee of the Whole, but an amended was placed on HB2260 on the floor by Rep. Rodriguez that removes the Public Defender and replaces it with an Indigent Defense agency, Private Non-Profit Juvenile Justice Organization, and a Psychiatrist/Psychologist. This amendment was in contraction to what the Commission had recommended we proceed forward with. Director LeFevre had testified in committee to the Public Defender and the Victims advocate.

Chairman Sanders, inquired about how the legislature defined what an indigent defense agency (is that in lower case), further stating that “we don’t have anything in Pima County that is an indigent defense agency. We have a public defender, legal defender, and office of court appointed counsel. So I’m assuming that Indigent Defense agency could be filled by the head of any one of those agencies. Probably the legal defender or the public defender.”

Director LeFevre said the bill showed in all capitols, so staff could not articulate as to what the intent was meant by that. It was the Directors understanding that it would encompass all of those entities. Chief Sanders concurred that it made sense, but wanted clarification.

Joe Grossman inquired as to whether other individuals could volunteer in subcommittees that fit those needs? Director LeFevre stated that subcommittees are wholly formed at the discretion of the Chairperson. He further explained that we have had the same subcommittees for a period of time. The Chairperson and the Director have had a number of discussions about having more voices on our subcommittees to broaden out the scope of who would be represented.

Mr. Grossman inquired if whether ACJC had invited any of the individuals who are being added to the bill to sit in on any of the subcommittee meetings? Director LeFevre stated that in the recent meetings we have. But that ACJC still has six vacancies that need to be filled before members are added. Sheila Polk stated we are open to having more voices, but it depends on the purpose of the committee. For the Criminal Justice Reform Committee ACJC reached out and invited the voice of victims, defense attorney organization to be represented. There may come a time that we may want a child psychologist but maybe that could be down the road. We are always open to have different voices and are open to it, but the work of the committee dictates who would participate.

Mr. Grossman expressed concern about maintaining the current vacancies that are on the commission. The victims advocate and the defense attorney make sense, but expanding it past this doesn’t make sense.

Sheila Polk concurred with what Mr. Grossman stated. But she would like to better understand the language around indigent defense agency and feels maybe this is a better statement than “defense attorney”. Ms. Polk feels this may open this up to a broader range of individuals who represent the defendants in cases.

Chairman Sanders concurs and feels it would be an improvement. Director LeFevre said that in the past, staff had been directed to oppose additional members being added. The concern we have is that it was added and past out of the house. Staff will need to the Senate to have it removed.

Sheila Polk made a motion was made to continue to limit membership as set forth in our original bill subject to further exploration of the correct terminology to use when we refer to the public defender. Ken Vick, seconded the motion. Passed unanimously.

Ms. Edwards provided an update on bills that are currently being tracked. HB2166 – Criminal Justice Commission; Data Collection bill. This bill was assigned to appropriations last week and staff was successful in having the \$300,000 appropriation removed from the bill. Director LeFevre met with Senator Boyer about HB1171, which would require ACJC to collect restitution data. He and Senator Boyer came to an agreement that the data would begin collection on January 2023. This date is beyond the audit. Staff has contacted Rep. Blackman to reaffirm our need to keep HB2166 as clean as possible with no amendments. Ms. Edwards explained that the audit must be completed first before we can start adding what needs to be collected. We have asked Mr. Blackman to reject any amendments that may be brought to him on the floor.

Ms. Polk stated that she felt the courts already collected and reported on restitution data? Liana Garcia stated that the restitution data is not centralized. It's available and it can be collected, but it would need to be collected from a lot of different places because not all of the courts are on a centralized computer systems.

HB2158- the Protective Orders; Central Repository bill. Ms. Edwards stated that Director LeFevre was meeting with the Sheriffs this afternoon to discuss this bill and determine whether a resolution can be met with respect to the holder of the record. ACJC staff completed a fact sheet to be sent to the house judiciary committee. The fact sheet expresses the importance of this bill passing in its current form.

SB1290: Criminal Case Statistics; report; appropriation bill. Ms. Edwards and staff are meeting with Senator Engel next week to discuss this bill and the implications of utilizing the APRC funds for distribution to County Attorneys for a Criminal Case Statistics report. Staff will continue to monitor this bill.

Ms. Edwards discussed bills that staff is monitoring. Mr. Grossman asked about Rep. Biasucci's bill allowing to waive court fines instead of paying. Ms. Garcia and stated it was HB2110. AOC is working on an amendment on this bill to conform the civil traffic violations. But it's at a different hourly rate for people to work off their fines. The goal is to make all of those uniform. Liana Garcia will forward the fiscal impact that was conducted on this bill from last year.

HB2320 – The Sealing Arrest bill. This bill is scheduled to go through the House Criminal Justice Reform Committee next week. Ms. Polk expressed that she does not support this bill and is concerned about the portion that DPS is to seal records when DPS's system isn't open to the public anyway. At a minimum, this piece should be removed. Ms. Garcia, that AOC has a group of stakeholders meeting with the sponsor on this bill largely lead by the court clerks.

HB2295- The "Brady" bill introduced by Payne in the House Public Safety Committee and received a due pass on 2/2. Just an FYI.

HB2910 – Civil Asset Forfeiture Bill and was introduced yesterday by Rep. Grantham. ACJC reports on RICO and Asset Forfeiture, but it is not a bill we will take a position on. Russ Skinner asked whether they have a criminal conviction that no asset forfeiture would be allowed or foreseeable impounded? Ms. Edwards confirmed. Mr. Skinner expressed concerns. Ms. Polk said the County Attorneys are looking at the bill and it looks similar to what was dropped last session. County Attorneys have concerns that it's not even a workable process. The County Attorneys will probably weigh in. Ms. Garcia said AOC has concerns about the process as well.

Staff will continue to monitor other bills that impact Criminal Justice issues.

This concludes the legislative report.

### **III. Call to the Public**

Chief Sanders made a call to the public. No members of the public were present.

### **IV. Date, Time, and Location of Next Meeting**

The next legislative update is scheduled to occur on February 12, 2021 at 1:30 PM.

### **V. Adjournment**

The meeting was adjourned at 2:10 pm.

Respectfully submitted,

Andrew T. LeFevre, Executive Director

Audio recording available upon request.

# ARIZONA CRIMINAL JUSTICE COMMISSION

## LEGISLATIVE COMMITTEE

### ACTION-MOTION/ INFORMATION ITEM

<b>Presenter</b>	<i>Molly Edwards</i>
<b>Agenda Title</b>	<i>Review Introduced Criminal Justice Legislation</i>

<b>Recommended Action</b>	Committee Members will provide staff with positions on the discussed introduced legislation.
<b>Details/Discussion</b>	<p>Review, discussion, consideration and possible action on ACJC positions of various criminal justice legislation:            Committee Members may take the following positions on the discussed legislation</p> <ul style="list-style-type: none"> <li>- Support</li> <li>- Oppose</li> <li>- Neutral</li> <li>- Monitor</li> </ul>
<b>Fiscal Impact</b>	None
<b>Alternatives Considered</b>	Not Approve-Modify-Table